

DOCKET NO: 288921US0X PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
MARIO MAIO, ET AL. : ATTN: APPLICATION DIVISION
SERIAL NO: 10/577,929 :
FILED: MAY 1, 2006 :
FOR: PROCESS AND APPARATUS FOR :
COOLING AND ATOMIZING LIQUID OR :
PASTY-LIKE SUBSTANCES :

PETITION UNDER 37 C.F.R. § 1.47(a)

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

The undersigned Petitioners hereby request that the executed oath/declaration under 37 C.F.R. §1.63 submitted herewith be accepted in lieu of the fact that Mr. Mauro Menegoli, who is a named inventor on the above-identified application, refuses to sign the oath/declaration after diligent and *bona fide* attempts have been made to obtain the signature thereof. Evidence substantiating these unsuccessful attempts, which have in fact been made to obtain a properly executed oath/declaration from Mr. Menegoli, is summarized in detail in the following "Statement of Facts," as attested to and executed by Mr. Giampiero De Luca.

STATEMENT OF FACTS

The above-identified application is a 35 U.S.C. § 371 National Stage patent application of International patent application PCT/EP04/052674, filed on October 27, 2004. Accordingly, the above-identified application (including the specification, drawings and claims) is the equivalent of International patent application PCT/EP04/052674.

The last known address of Mr. Mauro Menegoli is Via Valle di Pruvignano 27, San Floriano 37020, Italy.

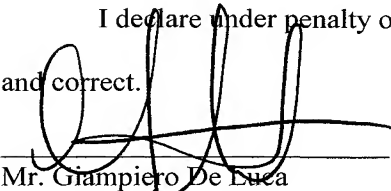
Mr. Menegoli, a former employee of Messer Italia S.P.A., failed to sign and return the oath/declaration provided to him by Messer Italia S.P.A.

Messer Italia S.P.A. assigned the entire right, title and interest in the above-identified application to Laboratoires Serono, S.A.

Under the direction of Mr. Giampiero De Luca, Laboratoires Serono, S.A. mailed a complete set of application papers, including the International patent application PCT/EP04/052674 (i.e., the specification, drawings and claims), oath/declaration, assignment, and power of attorney, to the last known address of Mr. Menegoli, along with the enclosed accompanying letter dated July 5, 2006. Successful delivery of the mailing of July 5, 2006 is substantiated by the enclosed evidentiary mail return receipt with corresponding signature confirmation confirming receipt and acceptance of the complete set of application papers by Mr. Menegoli.

Although Messer Italia S.P.A. and Laboratoires Serono, S.A. have made diligent and *bona fide* attempts to obtain a properly executed oath/declaration from Mr. Menegoli, as of the date that this Statement of Facts was executed, a duly executed oath/declaration has not been received from Mr. Menegoli.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.


Mr. Giampiero De Luca

6 December 2007
Date

The refusal of Mr. Mauro Menegoli to duly execute the oath/declaration is evidenced by the foregoing diligent and *bona fide* attempts made by Messer Italia S.P.A. and Laboratoires Serono, S.A. to obtain the signature thereof. It is readily apparent that Mr. Menegoli refuses to duly execute the oath/declaration, as substantiated by the enclosed evidentiary mail return receipt with corresponding delivery/signature confirmation, which confirms receipt and acceptance of the complete set of application papers by Mr. Menegoli.

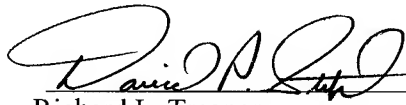
Application No. 10/577,929
Attorney Docket No. 288921US0XPCT
Petition under 37 C.F.R. § 1.47(a)

In accordance with 37 C.F.R. §1.47(a), enclosed herewith is the fee set forth in 37 C.F.R. §1.17(g), a Statement of Facts executed by Mr. De Luca averring to the foregoing diligent and *bona fide* attempts made by Messer Italia S.P.A. and Laboratoires Serono, S.A. to obtain a properly executed oath/declaration from Mr. Menegoli, accompanying documentary evidence substantiating this effort, and an oath/declaration under 37 C.F.R. §1.63, which has been executed by the named inventors on the above-identified application, except for Mr. Menegoli, who refuses to sign.

Consequently, it is respectfully requested that this petition be GRANTED.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



for

Richard L. Treanor
Attorney of Record
Registration No. 36,379

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

David P. Stitzel
Attorney of Record
Registration No. 44,360



BY MAIL

**M. Mauro MENEGOLI
Via Valle di Pruvignano 27
37020 San Floriano
ITALY**

July 5, 2006

Serono International S.A.
12, Chemin des Aulx
1228 Plan-les-Ouates
Geneva, Switzerland

Corporate IP Department

Tel. +41 22 706 95 30
Fax +41 22 706 91 23

Reference:

**International Patent Application
No.PCT/EP2004/052674 "PROCESS AND
APPARATUS FOR COOLING AND ATOMIZING
LIQUID OR PASTY-LIKE SUBSTANCES";
In the Name of LABORATOIRES SERONO S.A. and MESSER ITALIA S.P.A.
Our Files : 938 WO**

REGISTERED MAIL

Dear Mr. Menegoli,

We are pleased to inform you that the above-identified International patent application entered national phase in the United States of America and Canada. In order to complete the national formalities, please find enclosed the following documents for your review and execution:

- Declaration ,Power of attorney
- Assignment (for the US)
- Assignment (for CA)

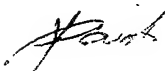
Please note that the Canadian Assignment should be witnessed. Please confirm that your address and citizenship information is correct; any necessary changes can be made by hand and must be dated and initialed.

We will appreciate if you could sign these documents in blue as indicated by the flags. After these documents have been executed, please send them to me via the enclosed self- addressed envelope so that they can be submitted to the U.S. Patent Office and Canadian Patent Office.

CONFIDENTIALITY: The information in this communication is confidential and may be privileged. If you are not the intended recipient referred to above you should not disclose any of the contents to anyone, make copies or take any action in reliance upon it. If you have received this communication in error please contact the sender. We will make arrangements for it to be collected. Thank you.

In case that you have further questions, please do not hesitate to contact the undersigned by phone. Thank you very much for your kind assistance.

Yours faithfully



Joëlle Dovat
Patent Formalities Administrator
Direct Phone : + 41 22 706 95 30

Enclosure:

- Copy of published application
- US Power of Attorney document for execution
- US Declaration for execution
- Canadian Assignment for execution

C.c Dr. Joachim Münzel without enclosures

PostMail
SWISS POST

AR Rückschein
Avis de réception
Avviso di ricevimento

Postdienstliche
Service des postes
Servizio postale

Stempel der zurücksendenden Stelle
Timbre du bureau renvoyant l'avis
Bollo dell'ufficio che rinviava l'avviso

Serono International S.A.

17. Juli 2006

Corporate IP Dept.



Durch die Annahmestelle ausstellen
Avenir par le bureau d'origine
Da presentare dall'ufficio d'impostazione

Annahmestelle
Bureau de dépôt
Ufficio d'impostazione

Nr.
N°

417
111518

Aufgabedatum
Date de dépôt
Data d'impostazione

05/07/06

Der Rückschein ist offen und sollte als
Sendung «prioritaire» direkt an den Absender
zurücksenden.

A renvoyer directement à l'expéditeur comme
envoi «prioritaire», à découvert et en franchise
de port.

Rimandare l'avviso al mittente come avviso
«prioritario» aperto e esente da tassa.

428.01 (100342) 05.2005 600 000 PM

Zurücksenden an (vom Absender ausfüllen)
Renvoyer à (à remplir par l'expéditeur)
Rimandare a (da riempire dal mittente)

Name oder Firma
Nom ou raison sociale
Nome o ditta

ipk 308

Straße und Nr.
Rue et n°
Via e n°

SERONO INTERNATIONAL S.A.
CORP. R&D EXPERIMENTAL MEDICINE

Ort
Localité
Località

12, CHEMIN DES AULX

Land
Pays
Stato

1228 PLAN-LES-ORLANS

☐ Eingeschriebene Sendung/Envoi recommandé/invio raccomandato
☐ Briefpost/Poste aux lettres/Posta-llettere
☒ **PRIORITY/Prioritaire/ECONOMY/Economique**
☐ Paket/Colis/Pacco

Sendung mit Wertangabe/Envoi avec valeur déclarée/invio con valore dichiarato
☒ **Letter/Lettre/Lettera**
☐ Paket/Colis/Pacco
☐ Wertangabe/Valeur déclarée/Valore dichiarato

☐ Postanweisung/Mandat de poste/Vaglia postale
☐ Einzahlungsschein/Bulletin de versement/Prozza di versamento
☐ Zahlungseinzug/Mandat de paiement/Mandato di pagamento
☐ Postüberweisung/Virement postal/Trasfero postale

Betrag/Montant/Importo

Name oder Firma des Empfängers oder Postkonto-Bezeichnung
Nom ou raison sociale du destinataire ou désignation du compte postal
Nome o ditta del destinatario o designazione del conto postale

Straße und Nr.
Rue et n°
Via e n°

Ort und Land
Localité et pays
Località e Stato

11. Menegoli
Via Valle di Pruniers 21 37020 San Floriano

Dieser Schein ist vom Empfänger oder dessen Bevollmächtigten, oder je nach den Vorschriften des Bestimmungslandes, von der Bestimmungs-
poststelle zu unterschreiben und mit erster Gelegenheit unmittelbar an den Absender zurückzusenden.
Cet avis doit être signé par le destinataire ou par une personne autorisée en vertu des règlements du pays de destination ou, à des règlements le
prescrivent, par l'agent du bureau de destination, puis renvoyé par le premier courrier directement à l'expéditeur.
Questo avviso deve essere firmato dal destinatario o dal suo mandatario oppure dall'agente dell'ufficio destinatario, secondo i regolamenti del paese
di destinazione, poi rimandato col primo corriere direttamente al mittente.

Die (Der) oben bezeichnete Sendung (Betrags) wurde(n) nicht
L'envoi/le montant mentionné ci-dessus a été (ont) émis.
L'invio/l'importo suddetto è stato (sono) debitamente

☐ ausgeliefert/Avré/recapitato
☐ ausbezahlt/paye/pagato
☐ dem Postkonto gutgeschrieben/credité au compte postal/
accreditato sul conto postale

Datum der Zustellung
Date de la distribution
Data della distribuzione

Unterschrift des Empfängers
Signature du destinataire
Firma del destinatario

12/7/06

Stempel und Unterschrift
der Empfangsstelle
Timbre et signature du bureau
destinataire
Bollo e firma dell'ufficio
destinatario